

filed and served
6/18/91

US EPA RECORDS CENTER REGION 5



471652

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CIVIL ACTION NO. C87-1471
)	
Plaintiff,)	JUDGE ALICE M. BATCHELDER
)	
v.)	
)	
MASTER METALS, INC.,)	MASTER METALS' MOTION FOR
)	<u>AN EXPEDITED HEARING</u>
Defendant.)	

On June 7, 1991, Defendant Master Metals, Inc. ("Master Metals") moved the Court in United State of America v. Master Metals, Inc., Case No. C87-1471, for reconsideration of its order of June 4, 1991, which arguably required Master Metals to initiate closure of its facility pursuant to Section V.G.2. of the Consent Decree in that action (the "U.S. EPA Consent Decree"). Master Metals now seeks an expedited hearing on the issues identified below for the following reasons. First, the United States Government has refused to cooperate with Master Metals in its attempts to reconcile the above-referenced court order and the U.S. EPA Consent Decree.

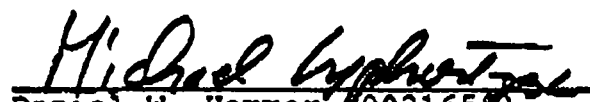
In addition, the United States Government has also refused to expedite consideration of Master Metals Petition for a Variance from the environmental liability coverage provisions of the U.S. EPA Consent Decree. Finally, an immediate hearing is necessary to determine whether acceptance of an offer of insurance from Lloyd's of London that is open only until June 24,

1991 complies with the Consent Decree. It is imperative that Master Metals obtain the Court's approval prior to the purchase of the Lloyd's policy of insurance since the policy has a non-refundable cost of \$220,000 per year and requires an additional \$100,000 Letter of Credit. The Government has refused to provide any indication to Master Metals whether the policy complies with the Consent Decree, apparently insisting that Master Metals take the risk.

The issues that are currently crucial for the Court to consider are as follows:

1. Whether Master Metals qualifies as a recycler under RCRA and is thereby exempt from the financial assurance requirements.
2. If Master Metals does not qualify as a recycler, whether the Lloyd's of London policy of insurance satisfies the provisions of Section V.G.2. of the Consent Decree where Lloyd's will only offer a duplication of the policy to the Government rather than issue a Certificate of Insurance.
3. Is it essential that Master Metals spend \$220,000 per year or more for a policy of insurance when the same amount of money can be accumulated in a trust as proposed by Master Metals' Petition for Variance and be equally protective of third-party personal injury or property damage given the minimal risk associated with sudden events at the facility?

Respectfully submitted,


Daniel W. Hammer (0021658)
Michael A. Cyphert, (0007086)
Daniel A. Ward (0025064)

THOMPSON, HINE AND FLORY
1100 National City Bank Bldg.
Cleveland, Ohio 44114
(216) 566-5500
Attorneys for Defendant
Master Metals, Inc.

CERTIFICATE OF SERVICE

The foregoing Master Metals' Motion for An Expedited Hearing was hand-delivered this 18th of June, 1991, to Arthur I. Harris, Esq., Assistant U.S. Attorney, 1404 East Ninth Street, Suite 500, Cleveland, Ohio 44114, and was served by first class mail, postage prepaid, on Barbara A. Rogers, Esq., Environment and Natural Resources Division, U.S. Department of Justice, P. O. Box 7611, Ben Franklin Station, Washington, D.C. 20530.


One of the Attorneys for
Defendant Master Metals

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North America



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COMPANY			
J.E. Moerkhaus & Associates			
ATTENTION OF			
Dick Churchill / Adam Cohn			
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MASTER METALS INC

Based on NDC review of the company for June 3rd, we have the following agreed by one of the three binding UWTs. We do not expect any of the following to change with the agreement of the third binding UWT.

DEFENSE COSTS: UWTs are prepared to offer a sub limit for defense costs \$100,000. in the Aggregate. Additional Premium \$10,000.

INSURABLE: Master Metals should arrange for a Letter of Credit to be set up for the value of \$100,000. in favor of Lloyd's UWTs. This LOC is to be drawn upon in the event that the Insured does not reimburse UWTs for deductible expenditures within 30 days of such payment by UWTs.

WARRANTIES: UWTs will not relax the wording of the warranty governing services etc. The warranty requires Master Metals to maintain in force all pending requirements. It there is any difficulty when doubtless Master Metals will have special discussions with the Regulatory Authority to establish them to comply, therefore the warranty is not breached. Master Metals UWTs do not believe the warranty governing services and discharges of waste and storm water requires amendments. UWTs are aware that Master Metals has agreed to a waste water compliance schedule with NEPCRD that will require them to install an operational system by the end of 1991 but until then they have discretion to operate so in effect they are complying with NEPCRD.

Warranty will UWTs have no objection to the word "reasonable" being inserted before provision. Certificate of Insurance: UWTs will be prepared to consider issuing a certificate of insurance that follows the terms and conditions of the policy they have offered or will issue a duplicate of the policy with advice for the EPA.

Best Regards
Will advise third binding UWTs committee / agreement. Advise your advice.

Max Symons

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